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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/164,793	10/01/1998	PAUL WILLIAM WATT	JJM-381	7085

7590 12/01/2001

AUDLEY A CIAMPORCERO JR  
ONE JOHNSON & JOHNSON PLAZA  
NEW BRUNSWICK, NJ 089337003

EXAMINER

JACKSON, GARY

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 12/01/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

*Copy of earlier mailed  
Advisory Action*

<b>Advisory Action</b>	Application No.	Applicant(s)
	09/164,793	WATT ET AL.
	Examiner Gary Jackson	Art Unit 3731

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 February 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either a timely filed amendment which places the application in condition for allowance or a Notice of Appeal. Alternatively, applicant may obtain further examination by timely filing a request for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d).

PERIOD FOR REPLY [check only a) or b)]

- a)  The period for reply expires 3 months from the mailing date of the final rejection.
- b)  In view of the early submission of the proposed reply (within two months as set forth in MPEP § 707.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136 (a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked.

1.  A Notice of Appeal was filed on 28 February 2001. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2.  The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3.  The proposed amendment(s) will not be entered because:
  - (a)  they raise new issues that would require further consideration and/or search. (see NOTE below);
  - (b)  they raise the issue of new matter. (see Note below);
  - (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

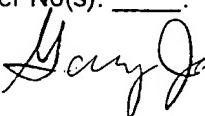
4.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
5.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6.  The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
7.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8.  For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
 

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-25.

Claim(s) withdrawn from consideration: \_\_\_\_\_.
9.  The proposed drawing correction filed on \_\_\_\_\_ a) has b) has not been approved by the Examiner.
10.  Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
11.  Other:

  
**GARY JACKSON**  
 PRIMARY EXAMINER  
 GROUP 33C0

have not been entered. The Reply Brief "Summary of Invention" has been considered, but it is not deemed to be persuasive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Jackson whose telephone number is (703) 308-4302. The examiner can normally be reached on Mon.-Thurs. 7:30 am to 6:00 p.m.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Gary Jackson  
Primary Examiner  
Art Unit 3731

GJ  
November 14, 2001



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT      PAPER

19

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

A SHORTEN STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET EXPIRE  
1 MONTH(s) FROM THE DATE OF THIS OFFICE LETTER.

In response to applicants Reply Brief filed October 15, 2001, this letter is an attempt to clarify issues on appeal before the Board of Appeals and Interferences.

The examiner failed to recognize that the applicants did not receive a copy of the Advisory Action mailed March 27, 2001. The address shown on the Advisory Action mailing is the same as that used in other mailings. Please find a copy of the mailing enclosed.

The examiner maintains the position that specification does not clearly support the proposed amendment after final to claims 1 and 18. Further, even if the specification supports such limitations, the examiner believes they raise new issues and therefore they

Gary Jackson  
Primary Examiner  
Art Unit: 3731

have not been entered. The Reply Brief "Summary of Invention" has been considered, but it is not deemed to be persuasive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Jackson whose telephone number is (703) 308-4302. The examiner can normally be reached on Mon.-Thurs. 7:30 am to 6:00 p.m.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



Gary Jackson  
Primary Examiner  
Art Unit 3731

GJ  
November 21, 2001



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CN

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/164,793 10/01/98 WATT

P JJM-381

EXAMINER

QMI2/0327

AUDLEY A CIAMPORCERO JR  
ONE JOHNSON & JOHNSON PLAZA  
NEW BRUNSWICK NJ 08933-7003

JAN FOLKIN, G ART UNIT

PAPER NUMBER

3731  
DATE MAILED:

03/27/01

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Commissioner of Patents and Trademarks

Continuation of 3. NOTE: The recitation of uniform composition and construction" was not claimed earlier and does not place the claims in condition for allowance..

## **APPENDIX OF CLAIMS ON APPEAL**

### **CORRECTED CLAIMS ON APPEALS:**

Claim 1. A biopolymer sponge tube which is closed at one end.

Claim 18. A method for stapling mammalian tissue comprising the steps of:

placing the tissue between a staple cartridge and anvil in a surgical stapler;

fitting a closed-end biopolymer sponge tube over the staple cartridge and /or over the anvil; and

firing at least one staple from the staple from the staple cartridge through the biopolymer sponge tube and through the tissue to thereby attach the biopolymer sponge to the tissue.

**Attachment for PTO-948 (Rev. 03/01, or earlier)**

**6/18/01**

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.